No. 94-1941

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1994

UNITED STATES OF AMERICA
Petitioner,

v.

COMMONWEALTH OF VIRGINIA, *et al.*
Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

---

BRIEF OF *AMICI CURIAE* NATIONAL WOMEN'S LAW CENTER, AMERICAN CIVIL LIBERTIES UNION, THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN, B'NAI B'RITH WOMEN, CENTER FOR ADVANCEMENT OF PUBLIC POLICY, CENTER FOR WOMEN POLICY STUDIES, COALITION OF LABOR UNION WOMEN, CONNECTICUT WOMEN'S EDUCATION AND LEGAL FUND, EQUAL RIGHTS ADVOCATES, FEDERALLY EMPLOYED WOMEN, INC.,

(Additional Amici Continued on Inside Cover)

IN SUPPORT OF THE PETITION

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NATIONAL COUNCIL OF JEWISH WOMEN, INC.,
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NATIONAL ORGANIZATION FOR WOMEN,
THE NATIONAL WOMAN'S PARTY,
NATIONAL WOMEN'S CONFERENCE COMMITTEE,
NATIONAL WOMEN'S POLITICAL CAUCUS,
NOW LEGAL DEFENSE AND EDUCATION FUND,
TRIAL LAWYERS FOR PUBLIC JUSTICE,
WOMEN EMPLOYED,
WOMEN'S LAW PROJECT, AND
THE WOMEN'S LEGAL DEFENSE FUND

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WOMEN EMPLOYED, WOMEN'S LAW PROJECT, AND THE WOMEN'S LEGAL DEFENSE FUND IN SUPPORT OF THE PETITION

INTERESTS OF *AMICI*

Amici curiae are organizations strongly committed to achieving equity for women and have a demonstrated record in pursuing that goal. Each has an abiding interest in assuring the sound interpretation and application of the protections guaranteed by the Fourteenth Amendment. Descriptions of the individual organizations are set forth in the attached appendix.[1]

REASONS FOR GRANTING THE PETITION

This is as important a Constitutional gender-discrimination case as this Court has ever addressed. For 150 years, Virginia has offered men the opportunity to attend the prestigious Virginia Military Institute ("VMI"), and has denied that opportunity to women. The court below properly found that this practice violates the Equal Protection Clause. Virginia responded not by integrating VMI or by withdrawing state funding, but by creating a pallid alternative open only to women—the Virginia Women's Institute for Leadership ("VWIL"), a four-hour-per-week leadership program at nearby Mary Baldwin College, a women's school.

VWIL is completely different from and inferior to VMI in virtually every way. Under VMI's distinctive educational model, cadets must reside in spartan barracks, where they are subject to constant scrutiny and minute regulation; VWIL students would live in a standard dormitory among non-VWIL students at Mary Baldwin. VMI imposes a stringent military system under

[1] The parties' written consent to the filing of this brief has been filed with the Court.

which discipline permeates every aspect of daily life; VWIL students will merely take part in standard ROTC training. VMI employs the rigorous adversative method —including the first-year "rat line"—to instill leadership qualities in its cadets; VWIL has no such fundamental component. VMI offers degree programs in engineering; Mary Baldwin College (and therefore VWIL) provides a limited science curriculum and no Bachelor of Science degree. And, of course, VWIL lacks altogether the reputation, tradition, and prestige that distinguish VMI and provide special opportunities to VMI graduates.

In determining whether Virginia had remedied its equal protection violation by creating VWIL, the court below agreed that VMI and the four-hour-per-week women's leadership institute were not equal. Moreover, the court below did not find that the State had an "exceedingly persuasive jusification" for discriminating against women, or that the State had advanced an "important state interest." This Court's long established equal protection jurisprudence therefore required the court to rule against Virginia.

Instead, the court below invented out of whole cloth what it described as a "special intermediate scrutiny test." Not only is that test less protective than the intermediate scrutiny standard applied by this Court for over two decades, but it is even more lax than the "separate but equal" doctrine discarded by this Court forty-one years ago. The new test requires only that the state not have a "pernicious" purpose in offering single-gender education, that the gender-based classification be substantially related to that purpose, and that the state offer men and women "substantively comparable" benefits. A. 17a. This toothless new standard conflicts with numerous decisions of this Court, including *J.E.B.* v. *Alabama ex rel. T.B.*, 114 S. Ct. 1419 (1994); *Mississippi University for Women* v. *Hogan*, 458 U.S. 718 (1982); *Kirchberg* v. *Feenstra*, 450 U.S. 455 (1981); *Brown* v. *Board of Education*, 347 U.S. 483 (1954); and *Sweatt* v. *Painter*, 339 U.S. 629 (1950).

To make matters worse, in applying the "substantively comparable" prong of its new test, the court relied on overbroad and outmoded stereotypes of the relative capabilities of men and women. A. 22a, 25a-26a. The court then concluded that Virginia had satisfied the demands of the Equal Protection Clause.

That the court below so badly misinterpreted the intermediate scrutiny test indicates that it is time for this Court to declare that gender discrimination against women must be subject to strict scrutiny.

If this Court allows the decision below to stand, it will have a devastating impact on both women and men. The Court will have endorsed a decision authorizing states to track men and women into different careers and social roles, without the searching inquiry such discriminatory practices demand. Allowing the states to determine an individual's opportunities based upon his or her sex is antithetical to the Equal Protection Clause, is contrary to clearly established law, and is fundamentally unfair. This Court should grant the petition and reverse.[2]

I. THE DECISION BELOW CONFLICTS WITH NUMEROUS DECISIONS OF THIS COURT

A. The Alternative Program Offered To Women Fails To Satisfy Intermediate Scrutiny

This Court's gender discrimination precedents are clear. Gender-based classifications require an exceedingly persuasive justification. *J.E.B.*, 114 S. Ct. at 1425; *Hogan*, 458 U.S. at 724; *Kirchberg*, 450 U.S. at 461. Where, as here, a state employs a classification which on its face discriminates against women, the state bears the burden of proving that "the classification serves 'important governmental objectives and that the discriminatory means employed' are substantially related to those objectives" *Hogan*, 458 U.S. at 724; *see also J.E.B.*, 114 S. Ct. at 1425-26; *Craig* v. *Boren*, 429 U.S. 190, 197 (1976).

There is no question that Virginia's exclusion of women from VMI fails this test. The state premised VMI's exclusion of women, and the alternative women-only VWIL program, on overbroad assumptions about women's capacity and desire to succeed at VMI, *see, e.g.*, A. 22a, 25a-27a, 64a, 72a-76a, 84a—" 'the very stereotype the law condemns.' " *J.E.B.*, 114 S. Ct. at 1426 (quoting *Powers* v. *Ohio*, 499 U.S. 400 (1991)).

B. The "Special Intermediate Scrutiny" Test Invented Below Conflicts With This Court's Precedents

Rather than follow established law, the court below invented out of whole cloth what it described as a new "special intermediate scrutiny test." A. 13a. Under this "special intermediate scrutiny," the state must show three things:

> (1) that its objectives are "not pernicious" and "fall[] within the range of . . . traditional governmental objective[s]." A. 22a;
>
> (2) that "the gender classification adopted is directly and substantially related to that purpose;" A. 17a; and
>
> (3) that it provides men and women benefits which are "substantively comparable." A. 17a.

This new test conflicts squarely with this Court's well-established precedents. First, this Court has made clear that the government must do more than show that its objectives are not pernicious. As the Court has often repeated, most recently in *J.E.B.*, gender classifications

[2] A decision by the Court in this case will also directly affect Shannon Faulkner, who is not a party to this case. In parallel litigation, Faulkner is seeking admission to the Citadel, a South Carolina institution that, like VMI, excludes women. South Carolina, at the direction of the Fourth Circuit, *see Faulkner* v. *Jones*, 51 F.3d 440 (4th Cir. 1995), is now developing a program for Faulkner modeled on VWIL, even though Faulkner has consistently maintained that if given the choice required by the Equal Protection Clause, she would choose the Citadel over a VWIL-style women-only program.

require an "exceedingly persuasive justification." *J.E.B.*, 114 S. Ct. at 1425; *Hogan*, 458 U.S. at 724. Accordingly, the state must show the classification serves an "important state purpose," not simply a non-pernicious one. *See, e.g., Hogan*, 458 U.S. at 730 (all-women nursing school unconstitutional because state failed to articulate a sufficiently important objective).

Second, this Court has time and again stressed the importance of scrutinizing carefully the fit between the state purpose and the gender classification. *See, e.g., Wengler* v. *Druggists Mutual Ins. Co.*, 446 U.S. 142, 150-51 (1980) (state purpose valid, but unconstitutional because gender classification unnecessary to serve that purpose); *Orr* v. *Orr*, 440 U.S. 268, 281-82 (1979) (same); *Weinberger* v. *Weisenfeld*, 420 U.S. 636, 651-52 (1975) (same). Though reciting that such scrutiny was required, the court below effectively eliminated it by finding the provision of single-gender education itself to be an acceptable end.[3] There will always be a fit between this end and the employment of gender classifications, and the second prong of the "special intermediate scrutiny" test thus carries no weight.

Finally, the Fourth Circuit added an entirely unprecedented prong to the test by permitting the exclusion of one gender from a state program if the state offers some members of that gender "substantively comparable" alternatives. This "substantively comparable" test is contrary to, and even more lax than, the "separate but equal" test of *Sweatt* v. *Painter*, 339 U.S. 629 (1950), a test this Court rejected as too lenient in *Brown* v. *Board of Education*, 347 U.S. 483 (1954).

---

[3] While single-gender education may be justified by a compensatory purpose, *see Hogan*, 458 U.S. at 728, there is no such purpose here.

In *Sweatt*, this Court considered the plight of an African-American student denied admission to the University of Texas Law School on the basis of his race. Although Texas proposed to open a separate law school for non-whites (and thereby to comply with the separate-but-equal regime permissible under pre-*Brown* jurisprudence), the Court rejected this half-measure:

> [W]e cannot find substantial equality in the educational opportunities offered white and Negro law students by the State. In terms of the number of the faculty, variety of courses and opportunity for specialization, size of the student body, scope of the library, availability of law review and similar activities, the University of Texas Law School is superior.

339 U.S. at 633-34. Moreover, the Court explicitly noted that "position and influence of the alumni, standing in the community, traditions and prestige" all weighed so heavily in favor of the established school as to render a parallel institution inherently unequal. *Id.* at 634.

The similarities between *Sweatt* and this case are striking. There, as here, the lower courts recognized that an equal protection violation had taken place, yet improperly permitted the establishment of a parallel program as the remedy. In this case, too, the separate VWIL program is an anemic imitation of the original, lacking not only VMI's physical facilities and educational rigor, but also those intangible factors (reputation, tradition, prestige) whose importance the Court underscored in *Sweatt*. For all these reasons, it is as difficult to believe here as it was in *Sweatt* that a person who desired a VMI education and "had a free choice between these . . . schools would consider the question close." *Id.* at 634.

C. The Fourth Circuit's Application Of The "Special Intermediate Scrutiny" Test Is Directly Contrary To This Court's Decision In *Mississippi University for Women v. Hogan*

In *Mississippi University for Women* v. *Hogan*, the Court struck down Mississippi's all-women nursing school. The lower court's approach is so far out of line with this Court's teachings that *Hogan* would likely come out the other way under "special intermediate scrutiny." First, the State purpose deemed sufficient by the Fourth Circuit in the present case—the provision of single gender education—is equally applicable to Mississippi's operation of the all-female nursing school in *Hogan*. Second, the gender-based classification at issue in *Hogan*, the exclusion of men from a nursing school, was no less related to the State's desire to provide single-gender education than is the case here. Finally, had the *Hogan* Court inquired into whether substantively comparable benefits were available to the excluded gender—which it refused to do—Mississippi's exclusion of men from a nursing school may well have passed such a test. If a totally different and inferior program at VWIL can be considered substantively comparable to VMI, then it would be hard to imagine that the alternative Mississippi offered—two nursing schools available to men in other locations—would not be substantively comparable to the all-women nursing school under the Fourth Circuit's test. Yet the *Hogan* Court properly applied intermediate scrutiny to strike down the single-gender school. The Fourth Circuit should have done likewise.

In short, "special intermediate scrutiny" is a misnomer for the test invented by the court below. That test has nothing in common with the intermediate scrutiny this Court has developed. The lower court's test had only one purpose—to allow Virginia to preserve anachronistic and blatantly discriminatory institutional practices. This Court should grant the petition and reverse the decision below.

II. THE COURT SHOULD TAKE THIS OPPORTUNITY TO RECOGNIZE THAT SEX-BASED DISCRIMINATION WARRANTS STRICT SCRUTINY UNDER THE EQUAL PROTECTION CLAUSE

This Court has explicitly left open the question whether gender-based classifications should be analyzed under the intermediate scrutiny described in *J.E.B.* and *Hogan*, or whether, like racial classifications, they are subject to sctrict scrutiny. *See J.E.B.*, 114 S. Ct. at 1425 n.6; *Hogan*, 458 U.S. at 724 n.9; *Harris* v. *Forklift Sys.*, 114 S. Ct. 367, 373 (1993) (Ginsburg, J., concurring). While Virginia's denial of a VMI education to women does not survive intermediate scrutiny as properly interpreted under this Court's precedents, this Court should now take the opportunity to apply strict scrutiny to gender-based discrimination.

First, this Court has often recognized the long and tortured history of discrimination against women in this country. *See, e.g., J.E.B.*, 114 S. Ct. at 1425 (recognizing similarities between historic discrimination against women and minorities); *Hogan*, 458 U.S. at 725 n.10 ("History provides numerous examples of legislative attempts to exclude women from particular areas simply because legislators believed women were less able than men to perform a particular function."); *Frontiero* v. *Richardson*, 411 U.S. 677, 684-85 (1973) (acknowledging that "our Nation has had a long and unfortunate history of sex discrimination," and recognizing that "throughout much of the 19th century the position of women in our society was, in many respects, comparable to that of blacks under the pre-Civil War slave codes") (plurality opinion). This history, coupled with the continuing reliance on gender-based stereotypes to limit women's opportunities, as has occurred in this case, supports the application of strict scrutiny to gender-based classifications which disadvantage women.

Second, the difficulty lower courts like the Fourth Circuit have had in properly applying intermediate scrutiny warrants that this Court now hold that gender-based discrimination requires strict scrutiny. The decision below, which relies on gender-based stereotypes to support the State's denial of equal opportunity to women, and which creates a special new test out of whole cloth, exemplifies the misapplication of intermediate scrutiny to gender-based qualifications.

Another similar misapplication is the Fourth Circuit's recent decision in *Faulkner* v. *Jones*, 51 F.3d 440 (4th Cir. 1995), which left open the possibility that South Carolina will be permitted to deny women the benefits of a Citadel education by operating an alternative, inferior leadership training program for women. *See id.* at 450 (Hall, J., concurring) (". . . I am convinced that we have embarked on a path that will inevitably fall short of providing women their deserved equal access to important avenues of power and responsibility."). Moreover, the *Faulkner* court in dicta espoused yet another curious wrinkle in its misinterpretation of intermediate scrutiny, suggesting that while an absence of demand among women as a group may not justify the deprivation of an individual's civil rights based on gender, it may justify a deprivation of "an economic benefit" such as "single gender education," based on that individual's gender. *See id.* at 445. This suggestion is entirely without support in this Court's precedents.

Other courts have also misapplied intermediate scrutiny to uphold invidious gender-based classifications. For example, before this Court decided *J.E.B.*, numerous courts had upheld gender-based peremptory strikes based on traditional and overbroad stereotypes about the relative abilities of men and women. *See, e.g., United States* v. *Broussard*, 987 F.2d 215, 218-20 (5th Cir. 1993); *United States* v. *Nichols*, 937 F.2d 1257, 1262-64 (7th Cir. 1991), *cert. denied*, 502 U.S. 1080 (1992); *State* v. *Culver*, 233 Neb. 228, 444 N.W.2d 662 (1989).

Finally, the Court's recent decision in *Adarand Constructors, Inc.* v. *Pena*, 63 U.S.L.W. 4523 (U.S. June 12, 1995), subjecting race-based affirmative action programs to strict scrutiny, coupled with its earlier decision in *Richmond* v. *J.A. Croson Co.*, 488 U.S. 469 (1989), provides yet another reason for extending strict scrutiny to gender-based discrimination. It would hardly be justified under equal protection principles if the government had more leeway to discriminate against women than to enact affirmative action programs, such as that at issue in *Adarand*, designed to remedy discrimination against minorities. Unless all gender classifications are subject to strict scrutiny, such an anomaly results.

Moreover, as a practical matter, it may be easier for the government to discriminate against women than to enact affirmative action programs designed to remedy discrimination against women. Many affirmative action programs, like that at issue in *Adarand*,[4] are designed to remedy discrimination against both minorities and women. Although not required by this Court's precedents, public policy-makers may continue to treat women and minorities similarly under these programs, thereby applying the

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[4] One of the federal programs discussed in *Adarand* presumed that women as well as members of minority groups were "socially and economically disadvantaged individuals," and created incentives to encourage the awarding of federal contracts to such individuals. While nothing in *Adarand* or in *Croson* supports the application of strict scrutiny to gender-based affirmative action programs, some courts have already improperly subjected such programs to strict scrutiny. *See Brunet* v. *City of Columbus*, 1 F.3d 390 (6th Cir. 1993), *cert. denied*, 114 S. Ct. 1190 (1994) (applying strict scrutiny to gender-based affirmative action plan); *Conlin* v. *Blanchard*, 890 F.2d 811 (6th Cir. 1989) (same); *Cone Corp.* v. *Hillsborough Cty.*, 723 F. Supp. 669 (M.D. Fla. 1989) (same). *But see Associated General Contractors* v. *San Francisco*, 813 F.2d 922, 941 (9th Cir. 1987) (applying intermediate scrutiny to gender-based affirmative action plan).

strict scrutiny standard to affirmative action programs benefitting women that they now must apply to affirmative action programs benefitting minorities. Consequently, unless gender-based discrimination is subjected to strict scrutiny, the government may as a practical matter be more lenient in assessing its ability to adopt programs and policies which discriminate against women than it will be with respect to policies designed to overcome such discrimination. Such a miscarriage of justice has no place in this country's equal protection jurisprudence.

III. THE DECISION BELOW THREATENS THE EQUALITY OF WOMEN ACROSS THE COUNTRY

As this Court has observed repeatedly, the rights delineated in the Fourteenth Amendment are *individual* rights. *See, e.g., Adarand Constructors, Inc.* v. *Pena*, 63 U.S.L.W. 4523, 4530 (U.S. June 12, 1995) (reaffirming "the basic principle that the Fifth and Fourteenth Amendments protect *persons*, not *groups*") (emphasis in original); *Sweatt* v. *Painter*, 339 U.S. 629, 635 (1950); *Missouri ex rel. Gaines* v. *Canada*, 305 U.S. 337, 351 (1938).

In the decision below, the Fourth Circuit set aside this core principle of equal protection law. Instead, it based its approval of the VWIL alternative on generalized (and stereotyped) notions of how most young women would respond to a VMI-type adversative environment.[5] Instead of recognizing (as did one of VMI's own expert witnesses) that many young women would benefit from a VMI-style education,[6] the court below justified the

[5] "Educational experts for the Commonwealth testified that women *may not* respond similarly and that if the state were to establish a women's VMI-type program, the program would attract an insufficient number of participants to make the program work." A. 27a (emphasis supplied).

[6] *See* A. 223a (testimony of Dr. Richard Richardson that "undoubtedly" there are women who will do well under an adversative model).

watered-down VWIL program by speculating that *other* women would want a less confrontational environment. In so doing, the lower court ignored the fact that the VMI program may be equally inappropriate for (and undesirable to) most male students.

In effect, the Fourth Circuit traded off the rights of individual women who want a VMI education against those of a hypothetical group of women who fit the court's stereotyped assumptions and who might prefer something different. The analytical question the lower court should have posed instead—and the one consistent with this court's individual-rights view of equal protection—is whether the State's refusal, solely on gender grounds, to provide a VMI education to qualified individual women who may want one is substantially related to an important government interest.

By setting aside the rights of individual women who desire a VMI education, the decision below invites the states to perpetuate and reinforce stereotypical conceptions of proper gender roles by providing specific benefits, whether educational or otherwise, only to those who fit the state's preferred stereotypes. Today Virginia seeks to provide rigorous, adversative, and prestigious military education to men, and genteel leadership training to women. In the telling phrase of the district court, Virginia will teach men to march "to the beat of a drum" and women "to the melody of a fife." A. 84a. Tomorrow, another state might decide to offer vocational training in construction to men and home economics to women; or to offer math classes to young boys and sewing classes to young girls. The unconstitutionality of such gender tracking is clear, whether or not the benefits of math and sewing classes are "substantively comparable." To foreclose the potential for mischief inherent in the Fourth Circuit's invidious standard, this Court should grant the petition, and reverse.

CONCLUSION

For the foregoing reasons, *amici curiae* respectfully request this Court to grant the petition for a writ of certiorari.

Respectfully submitted,

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Dated: June 26, 1995

APPENDIX

APPENDIX

The National Women's Law Center ("NWLC") is a nonprofit legal advocacy organization dedicated to the advancement and protection of women's rights and the corresponding elimination of sex discrimination from all facets of American life. Since 1972, the Center has worked to secure equal opportunity in education for girls and women through full enforcement of the Constitution and laws prohibiting discrimination. It has a deep and abiding interest in assuring the eradication of state-sponsored discrimination against women and girls in education.

The American Civil Liberties Union ("ACLU") is a nationwide, nonpartisan organization of nearly 300,000 members which is dedicated to preserving the Bill of Rights. The ACLU Women's Rights Project, established in 1971, has been a leader in persuading courts to extend the protections of the Constitution to bring down the barriers to full equality for women in American society. The ACLU Women's Rights Project currently represents Shannon Richey Faulkner in her challenge to the all-male state military school, The Citadel of South Carolina. As counsel to Ms. Faulkner, the ACLU has a direct and profound interest in the outcome of the VMI litigation, and adds an invaluable perspective to this appeal as *amicus curiae*. The need for this Court's guidance on the proper application of intermediate scrutiny is perhaps nowhere better illustrated than by the turn of events in the Faulkner litigation, in which Ms. Faulkner must, under the Fourth Circuit's order, return to the trial court to litigate the constitutionality of segregated educational program under the cloud of the two unconstitutional standards concocted by the Fourth Circuit—both the "special" intermediate scrutiny and the "substantively comparable" tests.

The American Association of University Women's ("AAUW") 150,000 members work for education and

equity for women and girls. Since 1881, AAUW has advocated for equal education opportunities for students at every level.

B'nai B'rith Women (BBW) was founded in 1897 by a group of Jewish women who sought to improve the quality of life for women in their communities. Now an organization of 75,000 in the United States and Canada, BBW continues to speak out on issues that affect women —in their communities, families and in society. BBW supports civil rights laws that protect women and minorities; endorses equal pay for jobs of comparable worth; and advocates for adequate and just educational opportunities for all. BBW urges the Supreme Court to review the Fourth Circuit's decision in the VMI case.

The Center for Advancement of Public Policy is a non-profit, non-partisan organization working for equity for women, including educational equity for girls. For women to achieve equal status with men in American society, it is essential that girls receive equal educational opportunities. It is unconscionable that tax dollars are used to support gender-segregated educational institutions.

The Center for Women Policy Studies ("Center") was founded in 1972 as the first national policy research and advocacy institute focused exclusively on issues of social and economic justice for women. The Center conducts research and advocacy programs on sexual harassment and violence against women, work/family and "diversity" policies of employers, education, and other issues relevant to women.

The Coalition of Labor Union Women (CLUW), founded in 1974, is a national association of over 20,000 union members which advances the benefits of organized workplaces for women and promotes women's leadership development within the labor movement. CLUW is also an advocacy organization on behalf of millions of Ameri-

can working women, promoting affirmative action, leadership, health care reform, pay equity, child care options, and reproductive healt... The Coalition of Labor Union Women opposes discrimination against women in all forms.

The Connecticut Women's Education and Legal Fund ("CWELF") works through legal and public policy strategies and community education to end sex discrimination and empower all women to be full and equal participants in society. CWELF was founded in 1973 and has over 1,000 members. CWELF seeks to join this case as amicus curiae because it is integral to our mission to ensure equal educational and occupational opportunities for women.

Equal Rights Advocates (ERA) is a San Francisco-based public interest law center dedicated to the empowerment of women through the establishment of their economic, social and political equality. Since its inception over twenty years ago, ERA has specialized in litigating cases and pursuing public policy initiatives designed to assure women equal access to all of society's benefits including employment, education and public accommodations.

Federally Employed Women, Inc. ("FEW") is an international non-profit organization representing over one million civilian and military women employed by the Federal government. Since its inception in 1968, FEW's primary objective has been to eliminate sex discrimination and sexual harassment and enhance career opportunities for women in government. The Virginia Military Institute case is particularly of interest to FEW in that it denies young women the opportunity to receive quality military training and further perpetuates the notion that the military services can willfully and legally maintain policies and practices that are clearly discriminatory on the basis of gender.

The National Council of Jewish Women, Inc., ("NCJW") is a volunteer organization, inspired by Jewish values, that works through a program of research, education and advocacy and community service to improve the quality of life for women, children and families and strives to ensure individuals rights and freedoms for all. Founded in 1893, the NCJW has 100,000 members in over 500 communities around the country. The NCJW believes that "access to quality education is a fundamental right for all individuals." Based on NCJW's National Resolutions stating our belief that equality of rights shall not be denied or abridged on the basis of gender, we join this brief.

The National Council of Negro Women ("NCNW") is the nation's broadest based organization of African American women. A nonprofit voluntary service organization and 250 community based sections, NCNW has an outreach to cover four million women. Pursuant to NCNW's goal of providing greater opportunities for African American women, NCNW opposes sex discrimination in publicly funded universities such as the Virginia Military Institute.

The National Education Association ("NEA") is a nationwide employee organization with a current membership of 2.2 million members, the vast majority of whom are employed by public education institutions. NEA has long opposed gender discrimination in educational institutions.

The National Gay and Lesbian Task Force ("NGLTF") is a lesbian and gay civil rights organization dedicated to promoting freedom and full equality for all lesbians and gay men. NGLTF is proud to join this brief and all those individuals and organizations who challenge the Virginia Military Institute's discriminatory practice of prohibiting the admission of women to VMI.

The National Organization for Women ("NOW") is the largest feminist organization in the United States with

a membership of over 250,000 women and men and more than 750 chapters throughout the country. Since its founding in 1966, a major goal of NOW has been the eradication of sex discrimination in all aspects of education. NOW believes that until girls and women have equal access to all publicly funded educational institutions, and all of the programs therein, they are unlawfully denied the very basis of equal opportunity to compete and achieve in every aspect and level of U.S. society. In furthering its commitment to that goal, NOW has participated in numerous legal cases and worked for legislation and regulations to secure full enforcement of laws prohibiting sex discrimination in education.

The National Woman's Party, founded in 1913, is a historic, nonprofit, nonpartisan organization devoted to equality for women. In keeping with our historic commitment to equality for all people, the National Woman's Party strongly supports the inclusion of young women as full and equal participants at the Virginia Military Institute and joins the amicus brief in the VMI case.

The National Women's Conference Committee ("NWCC"), since its inception in 1977, has supported the grass roots movement for women's rights, as well as legal, economic, and social changes to ensure women's equality. With affiliated networks in 34 state capitals (including Virginia), the NWCC works to implement the 26-plank National Plan of Action for Women. The National Plan of Action, adopted by demographically representative delegates as part of the federally sponsored National Women's Conference, includes a plank supporting equal educational opportunity for women. In order to further the goal of equal educational opportunity, the NWCC opposes sex discrimination in publicly funded colleges and universities.

The National Women's Political Caucus ("NWPC") is a national grassroots organization that recruits, trains

and supports women for elected and appointed office at every level, regardless of party. NWPC traditionally convenes the Coalition of Women's Appointments which helps each national administration to find women for senior positions. The availability of qualified women for top appointed positions in military and defense areas depends in large measure on their access to the special training and education which prepares future leaders.

The NOW Legal Defense and Education Fund ("NOW LDEF") is one of the nation's foremost nonprofit advocacy organizations dedicated to the elimination of sex discrimination. Since its inception in 1970, the NOW LDEF has been involved in many federal and state cases concerning the issues of sexual harassment, education and women's rights. NOW LDEF is especially concerned with the issues raised in this case because of the importance of ensuring that women and girls receive non-discriminatory education under non-discriminatory conditions.

Trial Lawyers for Public Justice ("TLPJ") is a national public interest law firm dedicated to using trial lawyers' skills and strategies to advance the public good. Supported by a nationwide network of over 1,500 of the country's outstanding trial attorneys, TLPJ has actively pursued numerous sex discrimination in education cases pursuant to Title IX of the Education Amendments of 1972.

Women Employed is a national organization of working women, based in Chicago, with a membership of 2000. Since 1973, the organization has assisted thousands of working women with problems of sex discrimination. Women Employed works to empower women to improve their economic status and to remove barriers to economic equity through advocacy, direct service and public education. Women Employed strongly believes that one of the most fundamental guarantees that women are entitled to under the equal protection of the law concerns educational opportunity.

The Women's Law Project ("WLP") is a non-profit, feminist legal advocacy organization located in Pennsylvania. Founded in 1974, WLP works to abolish discrimination and injustice and to advance the legal and economic status of women and their families through litigation, public policy advocacy and education. WLP believes that access to equal educational opportunities is essential to achieving equal rights for women, and has worked throughout its twenty-year history to eliminate sex discrimination in education.

The Women's Legal Defense Fund ("WLDF"), founded in 1971, is a national advocacy organization that develops and promotes public policies to help women achieve equal opportunity, quality health care, and economic security for themselves and their families. WLDF has been an active participant in virtually all major sex discrimination cases before the Supreme Court, in countless cases in the lower federal courts, in Congressional efforts to remedy sex discrimination and in nationwide education efforts to inform policymakers and others about sex discrimination.